

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTER ☐
MOTOR CARRIER MATTER ☐
UTILITIES MATTER ☒

DATE April 08, 2009
DOCKET NO. 2008-160-C
ORDER NO. _____

SUBJECT:

DOCKET NO. 2008-160-C - Complaint of dPi Teleconnect, LLC v. BellSouth Telecommunications, Incorporated d/b/a AT&T South Carolina, Regarding BellSouth's Failure to Extend Cash Back Promotions to dPi - Discuss this Matter with the Commission.

COMMISSION ACTION:

Before us is AT&T's motion to compel discovery and dPi's motion to strike a portion of AT&T's laches defense that arguably supports AT&T's request for that discovery. AT&T wants the discovery to attempt to prove its burden that its decision to not offer a promotion to dPi was reasonable and nondiscriminatory. AT&T is arguing that the uses to which dPi has put such promotions may tend to support its contention that failure to offer the promotion does not have discriminatory effects on competition. dPi argues that the requested discovery is irrelevant due to the duties it claims AT&T has to offer it all promotions that are offered to its own customers for more than 90 days. I believe the law supports the fact that state commissions may review such questions regarding 90+ day promotions on a promotion-by-promotion basis, therefore I believe the requested discovery could lead to evidence that may be relevant to the case that will be presented at hearing. I move that we grant AT&T's motion to compel discovery and deny dPi's motion to strike a portion of AT&T's laches defense as moot based on the granting of AT&T's discovery motion.

PRESIDING: FlemingSESSION: RegularTIME: 2:30 p.m.

| | MOTION | YES | NO | OTHER |
|-----------|-------------------------------------|-------------------------------------|--------------------------|-------|
| CLYBURN | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| FLEMING | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| HAMILTON | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| HOWARD | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| MITCHELL | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| WHITFIELD | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| WRIGHT | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |

(SEAL)

RECORDED BY: J. Schmieding